

CHARTER AND CODE REQUIREMENTS FOR THE SALE OR LEASE OF CITY PROPERTY

Citywide Referendum:

- Parks, Recreation, Waterfront property
- West Lots
- Cultural Campus
- 72nd Street Parking Lot
- Convention Center Parking Lot
- Lincoln Road Parking Lots

All Other Property:

- 4/7 approval by the Planning Board
- 5/7 approval by the City Commission

Additional Requirements:

- Independent Appraisal
- Advertised Public Bidding Process
- Payment of Costs
- Planning Analysis
- Two readings by the City Commission
- Public Hearing at the Second Reading

CHARTER

Sec. 1.03. Powers of city.

(b) Alienability of property.

1. The only limitation concerning alienability of City-owned park, recreation or waterfront property is the restriction of the sale, exchange, conveyance or lease of ten (10) years or longer (including option periods) of park, recreation, or waterfront property in the City of Miami Beach, unless such sale, exchange, conveyance or lease is approved by a majority vote of the voters in a City-wide referendum. This provision shall be liberally construed in favor of the preservation of all park, recreation and waterfront lands.
2. The **sale, exchange, conveyance or lease** of ten years or longer of the following properties shall also require approval by a majority vote of the voters in a City-wide referendum: (1) **Lots West of the North Shore Open Space Park:** All City-owned property bounded by 87th Street on the North, Collins Avenue on the East, 79th Street on the South, and Collins Court on the West; (2) **Cultural Campus:** All City-owned property bounded by 22nd Street on the North, Park Avenue on the West, 21st Street on the South, and Miami Beach Drive on the East; (3) **72nd Street Parking Lot:** The City-owned surface parking lot bounded by 73rd Street on the North, Collins Avenue on the East, 72nd Street on the South, and Harding Avenue on the West; (4) **Convention Center Parking Lots:** All City-owned surface parking lots located in the Civic and Convention Center District, generally bounded by Lincoln Lane on the South, Washington Avenue on the East, Meridian Avenue on the West and Dade Boulevard on the

North; and (5) **Lincoln Road Parking Lots**: All City-owned surface parking lots in the vicinity of Lincoln Road located within the area bounded by 17th Street on the North, Euclid Avenue on the East, 16th Street on the South, and West Avenue on the West.

3. The sale, exchange, conveyance or lease of ten years or longer of all remaining City-owned property shall, as provided by Ordinance, require approval by a majority (4/7) vote of all members of the Planning Board and five-sevenths vote of all members of the City Commission.
4. The terms of this Charter section shall not apply to any valid written contractual commitments or bids or bonded indebtedness, which commitments, bids or indebtedness existed prior to January 14, 2004; nor shall this Charter section apply to any City property which is the subject of a settlements of a claim which the City had notice of as of January 14, 2004.

CITY CODE

ARTICLE II. SALE OR LEASE OF PUBLIC PROPERTY

Sec. 82-36. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: City property includes but is not limited to any land, water or air rights.

Lease of city property means any right to lease city property by way of agreement, irrespective of consideration being paid to the city, and irrespective of the city's also utilizing or being allowed to utilize the property for any purpose during the term of the lease. For purposes of this article, the term "lease" shall not include special event permits, revocable permits, concession agreements, convention center or T.O.P.A. use agreements, or leases for a term of not more than one year, including option periods.

Sale of city property means any conveyance, transfer, gift, exchange or other transaction in which legal title passes from the city to any person or entity, whether or not the city retains any partial title, interest, reservation, easement, right-of-way, restriction or license in regard to the property. "Sale" shall include vacations of alleys and rights-of-way, and terminations of public easements on private property (excluding grants and/or terminations of utility easements).

(Ord. No. 92-2783, § 1, 6-17-92; Ord. No. 2006-3509, § 1, 3-8-06)

Cross references: Definitions generally, § 1-2.

Sec. 82-37. Hearing.

Prior to the sale and/or lease of city property, the city commission shall have read the title of the resolution approving such sale and/or lease on **two separate dates** and immediately following the second reading hold a **public hearing**, advertised not less than **15 days** prior to the hearing, in order to obtain citizen input into any proposed sale and/or lease.

(Ord. No. 92-2783, § 2, 6-17-92; Ord. No. 2006-3509, § 1, 3-8-06)

Sec. 82-38. Analysis.

In order for the city commission and the public to be fully apprised of all conditions relating to the proposed sale and/or lease of city property, the **planning, design and historic preservation divisions shall prepare an analysis** using the following criteria:

- (1) Whether or not the proposed use is in keeping with city goals and objectives and conforms to the city comprehensive plan.
- (2) The impact on adjacent property, including the potential positive or negative impacts such as diminution of open space, increased traffic, noise level or enhanced property values, improved development patterns and provision of necessary services. Based on the proposed use of the property, the city shall determine the potential impact of the project on city utilities and other infrastructure needs and the magnitude of costs associated with needed infrastructure improvements. Should it become apparent that further evaluation of traffic impact is needed, the proponent shall be responsible for obtaining a traffic impact analysis from a reputable traffic engineer.
- (3) A determination as to whether or not the proposed use is in keeping with a public purpose and community needs, such as expanding the city's revenue base, reducing city costs, creating jobs, creating a significant revenue stream, and improving the community's overall quality of life.
- (4) Determination as to whether or not the development is in keeping with the surrounding neighborhood, will block views or create other environmental intrusions, and evaluation of the design and aesthetic considerations of the project.
- (5) The impact on adjacent properties, whether or not there is adequate parking, street and infrastructure needs.
- (6) A determination as to whether or not alternatives are available for the proposed disposition, including assembly of adjacent properties, and whether the project could be accomplished under a private ownership assembly.
- (7) Within the constraints of public objectives, the department should examine financial issues such as job generation, providing housing opportunities, and the return to the city for its disposition of property.
- (8) Such other issues as the planning, design and historic preservation division may deem appropriate in analysis of the proposed disposition.

(Ord. No. 92-2783, § 3, 6-17-92; Ord. No. 2006-3509, § 1, 3-8-06)

Sec. 82-39. Advertised public bidding process.

There shall be no sale or lease of city property unless there has been an **advertised public bidding** process. In addition, the sale or lease shall comply with all requirements of state, county and city laws and regulations. For any sale or lease of city property there shall also be an **independent appraisal** of the fair market or rental value of the property. The appraiser must be experienced in determining a

reasonable return for projects of a public/private joint venture nature. Should the purchaser or lessee be unwilling to pay the cost of such appraisal, then any such cost may be deducted from a bid bond or similar deposit made in a bid process. The appraisal shall include a determination of the value of the property based on proposed and possible uses including, without limitation, the highest and best use(s) of the property thereof, by the proposed purchaser or lessee. In regard to all leases of more than five years, including option periods, the conditions of this section, and in regard to leases of five years or less, including option periods, the conditions of this section, and the public hearing requirement in section 82-37, may be waived by a five-sevenths vote of the city commission upon a finding by the city commission that the public interest would be served by waiving such conditions. In regard to any sale, the conditions of only this section may be waived upon a five-sevenths vote of the city commission upon a finding by the city commission that the public interest would be served by waiving such conditions of bidding and/or appraisal for the disposition of the property.

(Ord. No. 92-2783, § 4, 6-17-92; Ord. No. 2006-3509, § 1, 3-8-06)

Sec. 82-40. Payment of costs.

All costs associated with the sale or lease procedures addressed in this article shall be, at the option of the city, paid by the purchaser or lessee.

(Ord. No. 92-2783, § 5, 6-17-92; Ord. No. 2006-3509, § 1, 3-8-06)